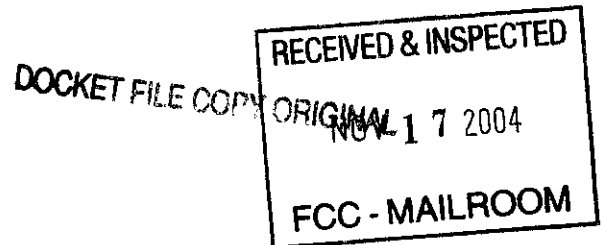


November 11, 2004

Request for Review

Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

Re: **Request for Review of Year 6 2003 Form 486 Start Date**
Billed Entity Number **130911**
Form 471 Application Number **375805**
Funding Request Numbers **1029158; 1029160; 1029162**



Dear Schools Library Division:

The Plymouth Canton Community School District is submitting this Request for Review to the FCC regarding the denial by the SLD of a waiver request of the "Start date of Form 486" for Year 6 funding year 2003 on the grounds of equity and extenuating circumstances. Presently the date of 05/24/2004 is the official start date assigned to Form 471 # 375805 and the above-mentioned Funding Request Numbers. The Funding Commitment Decision Letter was dated 05/18/2004.

The Plymouth Canton Community School District initiated several personnel changes during the beginning of the filing period for Year 6 2003. Limited funding resources prompted a reduction of department staff during a major communications upgrade. Several unforeseen technical issues unfolded that threatened the startup of the school year with no communications to the buildings. With the reduction in staffing and the issues encountered in this upgrade, there was some confusion created on which funding year confirmation 486 was submitted. During the time period from September 2003 through the present time the positions and responsibilities have been in transitional flux.

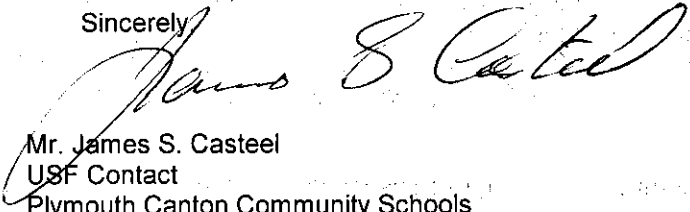
Interim staff following the directions from the SLD Training materials filed the Form 486 application for Telecommunications (priority one) service on September 21, 2004 six (6) days past the 120 day maximum. The FCDL was issued on May 18, 2004 so the 120 day Form 486 filing rule would have been September 15, 2004. On October 16, 2004 Plymouth-Canton Community School District received their Form 486 Notification Letter which reduced the Form 486 start date from July 1, 2003 to May 24, 2004 an 11 month reduction in funding discount.

The Plymouth Canton Community Schools maximum discount dollars have been reduced by over \$300,000.00. The amount of human effort was great and documentation and audit material for Year 6 2003 fills several three ring binders. The 92% reduction of dollars for being six (6) days late is unfair.

A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or effective implementation of overall policy on an individual basis. In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.

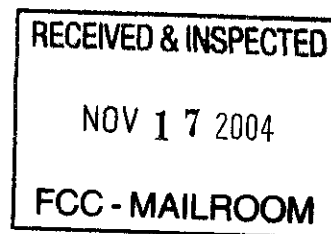
Attachment: Woodburn School District, Woodburn, Oregon; **Waiver Request** File No. SLD-240961.

Sincerely,


Mr. James S. Casteel
USF Contact
Plymouth Canton Community Schools
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**Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Waiver by)	
)	
Woodburn School District)	File No. SLD-240961
Woodburn, Oregon)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	CC Docket No. 97-21
Changes to the Board of Directors of the)	
National Exchange Carrier Association,)	
Inc.)	

ORDER

Adopted: October 3, 2003

Released: October 6, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Waiver filed by the Woodburn School District (Woodburn).¹ Petitioner seeks waiver of the filing deadline of October 28, 2001 for filing FCC Form 486 in Funding Year 2001 of the schools and libraries universal service support mechanism.² For the reasons set forth below, we grant Woodburn's Request for Waiver.

2. Woodburn filed its FCC Form 486 on August 8, 2001, more than two months before the October 28 deadline, but failed to complete the required Block 4 certification.³ However, SLD did

¹ See Letter from Paul A. Goodwin, Woodburn School District, to Federal Communications Commission, filed November 27, 2002 (Request for Waiver).

² See Request for Waiver. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c). Section 1.3 of the Commission's rules provides that the Commission may waive any provision of its rules if good cause is shown. 47 C.F.R. § 1.3.

³ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jo Anne Wolf, Woodburn School District, dated October 17, 2002 (Administrator's Decision on Appeal).

not notify Woodburn of the problem with its form until SLD mailed notice on October 22, 2001, shortly before the October 28, 2001 deadline.⁴ Woodburn filed the corrected FCC Form 486 on November 1, 2001, after the October 28, 2001 deadline.⁵ Consequently, it received discounts only for services starting November 1, 2001, rather than July 1, 2001.⁶

3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.⁷ In addition, the Commission may take into account considerations of hardship, equity, or effective implementation of overall policy on an individual basis.⁸ In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁹

4. Consistent with our precedent in the *Eastern Lebanon Order*, we conclude that Woodburn's request for discounts on telecommunications services presents special circumstances warranting a waiver of our rules.¹⁰ As was the case in the *Eastern Lebanon Order*, Woodburn made a good faith effort to comply with the deadline by filing its original FCC Form 486 early in the funding year and by filing the corrected version shortly after being apprised of the mistake.¹¹ Moreover, the deadline involved a first-time information request.¹² Woodburn also sought discounts only for telecommunications services, and the Commission has authority to waive the deadline with respect to requests that involve only telecommunications services.¹³

⁴ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jo Anne Wolf, Woodburn School District, dated October 22, 2001 (Woodburn Form 486 Return Letter).

⁵ See FCC Form 486, Woodburn School District, filed November 1, 2001.

⁶ Under the Children's Internet Protection Act, Funding Year 2001 applicants were required to file their FCC Forms 486 by no later than October 28, 2001 unless their service began after that date or a funding commitment decision letter issued after that date. See 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *CIPA Order*, 16 FCC Rcd at 8188-89, 8191, paras. 10, 18. A Funding Year 2001 applicant with a funding commitment decision letter who failed to meet the October 28, 2001 deadline could obtain discounts only for services received on or after the date that its FCC Form 486 was postmarked. See Schools and Libraries Universal Service, Receipt of Service Confirmation Form, OMB 3060-0853 (July 2001) (FCC Form 486); Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form (FCC Form 486), OMB 3060-0853 (July 2001) at 9 (Form 486 Instructions).

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁸ *WAIT Radio*, 418 F.2d 1027, 1157 (1972) (*WAIT Radio*).

⁹ *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ See *Request for Review by Eastern Lebanon County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 5466 (Wireline Comp. Bur. 2003) (*Eastern Lebanon Order*) (granting waiver request for telecommunications services for Funding Year 2001 where SLD unduly delayed notifying applicant of incomplete FCC Form 486).

¹¹ See *id.*; Request for Waiver.

¹² See *Eastern Lebanon Order*; Request for Waiver.

¹³ See *Eastern Lebanon Order*.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Waiver filed by Woodburn School District, Woodburn, Oregon on November 27, 2002 IS GRANTED and REMANDED TO SLD to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy
Division Wireline Competition Bureau